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International Convention
on the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Twelfth periodic reports of States parties due in 1995

Note by the Secretary-General

1. Twelfth periodic reports under article 9, paragraph 1 (b), of the Convention are due in 1995 from 15 States parties. The table below contains the list of the 15 States parties in alphabetical order, the dates on which their twelfth periodic reports are due, the symbol numbers of the documents containing their initial, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh periodic reports and the summary records of the meetings of the Committee at which such reports were considered.

2. This document also indicates twelfth periodic reports due in 1995 which have been received by the secretariat.

3. The twelfth periodic reports of the States parties listed below will be issued or have already been issued in addenda to this document.

GE.95-16135 (E)

States parties	Date on which twelfth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh and (12) twelfth periodic reports	Summary records
Algeria	15 March 1995	(1) CERD/C/R.50/Add.9	CERD/C/SR.182
		(2) CERD/C/R.77/Add.13	CERD/C/SR.342-SR.343
		(3) CERD/C/R.98/Add.2	CERD/C/SR.342-SR.343
		(4) CERD/C/48/Add.3	CERD/C/SR.444-SR.445
		(5) CERD/C/75/Add.4	CERD/C/SR.536-SR.537
		(6) CERD/C/106/Add.4	CERD/C/SR.653-SR.654
		(7) CERD/C/131/Add.3	CERD/C/SR.769-SR.770
		(8) CERD/C/158/Add.2 and Add.6	CERD/C/SR.841
		(9) CERD/C/209/Add.4	CERD/C/SR.962, SR.963 and SR.983
		(10) CERD/C/209/Add.4	CERD/C/SR.962, SR.963 and SR.983
		(11) Not yet received	--
Austria	8 June 1995	(1) CERD/C/R.50/Add.6	CERD/C/SR.187-SR.189
		(2) CERD/C/R.77/Add.4	CERD/C/SR.273-SR.274
		(3) CERD/C/19	CERD/C/SR.367-SR.368
		(4) CERD/C/48/Add.6	CERD/C/SR.459
		(5) CERD/C/75/Add.9	CERD/C/SR.560-SR.561
		(6) CERD/C/106/Add.12	CERD/C/SR.704-SR.705
		(7) CERD/C/158/Add.1	CERD/C/SR.837
		(8) CERD/C/158/Add.1	CERD/C/SR.837
		(9) CERD/C/209/Add.3	CERD/C/SR.947 and SR.951
		(10) CERD/C/209/Add.3	CERD/C/SR.947 and SR.951
		(11) Not yet received	--
Barbados	10 December 1995	(1) CERD/C/R.50/Add.11	CERD/C/SR.204
		(2) CERD/C/R.77/Add.6	CERD/C/SR.272
		(3) CERD/C/75/Add.7	CERD/C/SR.557
		(4) CERD/C/75/Add.7	CERD/C/SR.557
		(5) CERD/C/75/Add.7	CERD/C/SR.557
		(6) CERD/C/106/Add.13	CERD/C/SR.753-SR.754
		(7) CERD/C/131/Add.13	CERD/C/SR.890
		(8) Not yet received	--
		(9) Not yet received	--
		(10) Not yet received	--
		(11) Not yet received	--

States parties	Date on which twelfth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh and (12) twelfth periodic reports	Summary records
Cuba	16 March 1995	(1) CERD/C/R.50/Add.7	CERD/C/SR.180
		(2) CERD/C/R.77/Add.3 Add.5 and Add.8	CERD/C/SR.290-SR.291
		(3) CERD/C/R.98/Add.4	CERD/C/SR.350
		(4) CERD/C/48/Add.4 and Corr.1 (Spanish only)	CERD/C/SR.445-SR.446
		(5) CERD/C/75/Add.2	CERD/C/SR.533-SR.535
		(6) CERD/C/106/Add.3	CERD/C/SR.637-SR.638
		(7) CERD/C/131/Add.4/ Corr.1 (English only)	CERD/C/SR.759
		(8) CERD/C/158/Add.4	CERD/C/SR.845-SR.846
		(9) CERD/C/184/Add.3	CERD/C/SR.894-SR.895
		(10) Not yet received	--
		(11) Not yet received	--
Denmark	8 January 1995	(1) CERD/C/R.50/Add.3	CERD/C/SR.159
		(2) CERD/C/R.77/Add.2	CERD/C/SR.236
		(3) CERD/C/R.98/Add.3	CERD/C/SR.334
		(4) CERD/C/48/Add.2	CERD/C/SR.442-SR.443
		(5) CERD/C/75/Add.5	CERD/C/SR.540
		(6) CERD/C/106/Add.9	CERD/C/SR.664-SR.666
		(7) CERD/C/131/Add.6	CERD/C/SR.763-SR.765
		(8) CERD/C/158/Add.8	CERD/C/SR.864-SR.865
		(9) CERD/C/184/Add.2	CERD/C/SR.864-SR.865
		(10) CERD/C/280/Add.1	Pending consideration
		(11) CERD/C/280/Add.1	Pending consideration
		(12) CERD/C/280/Add.1	Pending consideration
Mauritius	29 June 1995	(1) CERD/C/R.50/Add.5	CERD/C/SR.180
		(2) CERD/C/R.77/Add.11	CERD/C/SR.343
		(3) CERD/C/38	CERD/C/SR.435-SR.436
		(4) CERD/C/75/Add.8	CERD/C/SR.559-SR.560
		(5) CERD/C/75/Add.8	CERD/C/SR.559-SR.560
		(6) CERD/C/106/Add.8	CERD/C/SR.664, SR.666-SR.667
		(7) CERD/C/131/Add.8	CERD/C/SR.782 and SR.792
		(8) Not yet received	--
		(9) Not yet received	--
		(10) Not yet received	--
		(11) Not yet received	--

States parties	Date on which twelfth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh and (12) twelfth periodic reports	Summary records
Netherlands	9 January 1995	(1) CERD/C/R.50/Add.4	CERD/C/SR.160-SR.161
		(2) CERD/C/4	CERD/C/SR.239-SR.240
		(3) CERD/C/9	CERD/C/SR.333-SR.334
		(4) CERD/C/48/Add.5	CERD/C/SR.446-SR.447
		(5) CERD/C/75/Add.6	CERD/C/SR.540-SR.541
		(6) CERD/C/106/Add.11	CERD/C/SR.689-SR.691
		(7) CERD/C/131/Add.7 and CERD/C/131/Add.10	CERD/C/SR.766-SR.767 and SR.769
		(8) CERD/C/158/Add.9	CERD/C/SR.872-SR.873
		(9) CERD/C/184/Add.4 and CERD/C/184/Add.6	CERD/C/SR.872-SR.873
		(10) Not yet received	--
		(11) Not yet received	--
New Zealand	22 December 1995	(1) CERD/C/R.50/Add.8	CERD/C/SR.181
		(2) CERD/C/R.77/Add.7	CERD/C/SR.282-SR.283
		(3) CERD/C/37	CERD/C/SR.414-SR.415
		(4) CERD/C/48/Add.10	CERD/C/SR.531-SR.532
		(5) CERD/C/75/Add.14	CERD/C/SR.652-SR.653
		(6) CERD/C/106/Add.10	CERD/C/SR.652-SR.653
		(7) CERD/C/131/Add.9	CERD/C/SR.788-SR.789 and SR.791
		(8) CERD/C/184/Add.5	CERD/C/SR.877-SR.878
		(9) CERD/C/184/Add.5	CERD/C/SR.877-SR.878
		(10) CERD/C/239/Add.3	Pending consideration
		(11) CERD/C/239/Add.3	Pending consideration
Senegal	18 May 1995	(1) CERD/C/R.50/Add.14	CERD/C/SR.249-SR.250
		(2) CERD/C/R.77/Add.10	CERD/C/SR.304
		(3) CERD/C/40	CERD/C/SR.419-SR.420
		(4) CERD/C/48/Add.9	CERD/C/SR.506-SR.507
		(5) CERD/C/131/Add.5	CERD/C/SR.763
		(6) CERD/C/131/Add.5	CERD/C/SR.763
		(7) CERD/C/131/Add.5	CERD/C/SR.763
		(8) CERD/C/158/Add.3	CERD/C/SR.843-SR.844
		(9) CERD/C/209/Add.7	CERD/C/SR.1046-SR.1047
		(10) CERD/C/209/Add.7	CERD/C/SR.1046-SR.1047
		(11) Not yet received	--

States parties	Date on which twelfth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh and (12) twelfth periodic reports	Summary records
Sweden	5 January 1995	(1) CERD/C/R.50/Add.2	CERD/C/SR.158-SR.159
		(2) CERD/C/R.77/Add.1	CERD/C/SR.241
		(3) CERD/C/R.98/Add.1	CERD/C/SR.332
		(4) CERD/C/48/Add.1	CERD/C/SR.436-SR.437
		(5) CERD/C/75/Add.1	CERD/C/SR.530
		(6) CERD/C/106/Add.2	CERD/C/SR.636
		(7) CERD/C/131/Add.2/ Rev.1	CERD/C/SR.768-SR.769
		(8) CERD/C/158/Add.7	CERD/C/SR.850-SR.851
		(9) CERD/C/184/Add.1	CERD/C/SR.850-SR.851
		(10) CERD/C/209/Add.1	CERD/C/SR.901-SR.902
		(11) CERD/C/239/Add.1	CERD/C/SR.1018-SR.1019
Togo	1 October 1995	(1) CERD/C/75/Add.12	CERD/C/SR.640-SR.641
		(2) CERD/C/75/Add.12	CERD/C/SR.640-SR.641
		(3) CERD/C/75/Add.12	CERD/C/SR.640-SR.641
		(4) CERD/C/75/Add.12	CERD/C/SR.640-SR.641
		(5) CERD/C/75/Add.12	CERD/C/SR.640-SR.641
		(6) Not yet received	--
		(7) Not yet received	--
		(8) Not yet received	--
		(9) Not yet received	--
		(10) Not yet received	--
		(11) Not yet received	--
Tonga	17 March 1995	(1) CERD/C/R.50/Add.1 and Add.10	CERD/C/SR.156 and SR.194
		(2) CERD/C/5	CERD/C/SR.277-SR.278
		(3) CERD/C/30	CERD/C/SR.393
		(4) CERD/C/75/Add.3	CERD/C/SR.551
		(5) CERD/C/75/Add.3	CERD/C/SR.551
		(6) CERD/C/106/Add.5	CERD/C/SR.656
		(7) CERD/C/131/Add.1	CERD/C/SR.728
		(8) CERD/C/158/Add.5	CERD/C/SR.838
		(9) CERD/C/209/Add.5	CERD/C/SR.1006
		(10) CERD/C/209/Add.5	CERD/C/SR.1006
		(11) Not yet received	--

States parties	Date on which twelfth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh and (12) twelfth periodic reports	Summary records
United Republic of Tanzania	26 November 1995	(1) CERD/C/R.50/Add.15	CERD/C/SR.287
		(2) CERD/C/R.77/Add.9	CERD/C/SR.287
		(3) CERD/C/48/Add.8	CERD/C/SR.481-SR.482
		(4) CERD/C/48/Add.8	CERD/C/SR.481-SR.482
		(5) CERD/C/75/Add.10	CERD/C/SR.628
		(6) CERD/C/131/Add.11	CERD/C/SR.817
		(7) CERD/C/131/Add.11	CERD/C/SR.817
		(8) Not yet received	--
		(9) Not yet received	--
		(10) Not yet received	--
		(11) Not yet received	--
Yemen	19 November 1995	(1) CERD/C/R.50/Add.12	CERD/C/SR.210
		(2) CERD/C/R.77/Add.12	CERD/C/SR.328
		(3) CERD/C/48/Add.7	CERD/C/SR.461-SR.462
		(4) CERD/C/48/Add.7	CERD/C/SR.461-SR.462
		(5) CERD/C/106/Add.6	CERD/C/SR.657
		(6) CERD/C/106/Add.6	CERD/C/SR.657
		(7) CERD/C/158/Add.10	Pending consideration
		(8) CERD/C/158/Add.10	Pending consideration
		(9) CERD/C/209/Add.2	CERD/C/SR.946 and SR.950
		(10) CERD/C/209/Add.2	CERD/C/SR.946 and SR.950
		(11) Not yet received	--
Zambia	5 March 1995	(1) CERD/C/R.50/Add.13	CERD/C/SR.242
		(2) CERD/C/106/Add.1	CERD/C/SR.634-SR.635
		(3) CERD/C/106/Add.1	CERD/C/SR.634-SR.635
		(4) CERD/C/106/Add.1	CERD/C/SR.634-SR.635
		(5) CERD/C/106/Add.1	CERD/C/SR.634-SR.635
		(6) CERD/C/106/Add.1 and Add.7	CERD/C/SR.634-SR.635
		(7) CERD/C/239/Add.2	CERD/C/SR.988
		(8) CERD/C/239/Add.2	CERD/C/SR.988
		(9) CERD/C/239/Add.2	CERD/C/SR.988
		(10) CERD/C/239/Add.2	CERD/C/SR.988
		(11) CERD/C/239/Add.2	CERD/C/SR.988

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UNITED NATIONS

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International Convention on the Elimination of all Forms of Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Twelfth periodic reports of States parties due in 1995

Addendum

DENMARK*

[3 March 1995]

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I.	Introduction and General Comments	1 - 10	2
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* This report contains in a single document the tenth, eleventh and twelfth periodic reports of Denmark due on 8 January 1991, 1993 and 1995 respectively.

For the eighth and ninth periodic reports submitted by the Government of Denmark and the summary records of the Committee's meetings at which the reports were considered, see:

(8) CERD/C/158/Add.8 (CERD/C/SR.864 and SR.865);
(9) CERD/C/184/Add.2 (CERD/C/SR.864 and SR.865).

The annexes referred to in the text may be consulted in the files of the Centre for Human Rights.

GE.95-16319 (E)

I. INTRODUCTION AND GENERAL COMMENTS

1. This report is submitted in pursuance of article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination which entered into force with respect to Denmark on 8 January 1972. It is organized in conformity with the general guidelines regarding the form and contents of reports to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/70/Rev.3), and concentrates on developments since the submission of the ninth periodic report in 1989 (CERD/C/184/Add.2). The general description of Danish society in the core document will be submitted shortly.

2. It should be noted that brief descriptions of

(a) The Danish policies to eliminate racial discrimination in all its forms;

(b) The general legal framework in which racial discrimination, as defined in article 1, paragraph 1, of the Convention, is prohibited and eliminated in Denmark; and

(c) The measures taken to promote and protect the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life have been given in the previous periodic reports, especially in the initial (CERD/C/R.50/Add.3) and the second periodic reports (CERD/C/R.77/Add.2) to which reference is made. The impact of the Convention on domestic law is dealt with in particular in section III of the fourth periodic report (CERD/C/48/Add.2).

3. Immigrants who have been resident in Denmark for a three-year period immediately preceding local elections have been granted the right to vote in such elections (cf. the comments on art. 5 in part II of the sixth periodic report (CERD/C/106/Add.9)).

4. The following annexes are submitted with the present report:

I. Judgement of the European Court of Human Rights of 23 September 1994 Jersild v. Denmark.

II. Act No. 466 of 30 June 1993 on the Board for Ethnic Equality.

III. Statistics concerning Greenland.

5. The following general conditions relating to the period since the submission of the last report should be mentioned.

6. Concerning the criminal case against a group of "green-jackets" mentioned in paragraph 11 of the ninth periodic report and referred to by the Committee in paragraph 56 in its consideration of the ninth report submitted by Denmark, the journalist who had been convicted and sentenced to a fine of DKr 1,000 by the Danish Supreme Court for contribution to public utterances of racially offensive statements, complained to the European Commission of Human Rights

in 1989. In its report of 8 July 1993, the European Commission found by 12 votes to 4 that Denmark had violated the journalist's right to freedom of expression. The European Court of Human Rights held in its judgement of 23 September 1994 by 12 votes to 7 that the journalist's right to freedom of expression in accordance with article 10 of the European Convention of Human Rights had been violated. A transcript of the judgement is annexed to this report and marked annex I.

7. In November 1994, the Government proposed a bill to amend section 266 (b) of the Danish Penal Code so that a prison sentence will become mandatory if the Court finds that the offence committed amounts to propaganda.

8. A Board for Ethnic Equality was set up by Act No. 466 of 30 June 1993. The tasks of the Board are among other things to make sure that discrimination between Danish citizens and persons of other ethnic origins is revealed and combated and that all ethnic groups in society have the possibility of carrying out their activities on equal terms. The composition of the Board is laid down in the Act on the Board of Ethnic Equality which is annexed to this report and marked annex II.

9. In 1994, the Government appointed a committee, the Committee on Employment Law, which has been assigned the task of examining and compiling legislation on employment policies with a view to creating a less complex legal position. The Committee is supposed to consider legislation in areas which are not directly statutory today, for instance whether legislation against ethnic discrimination should be introduced and how such legislation should be formulated, if deemed necessary. Furthermore, the Government has drawn up a plan of action for the breaking down of barriers for immigrants and refugees on the labour market. The plan mainly relates to courses at which immigrants and refugees are taught Danish and are informed about and introduced to working life in Denmark.

10. Additionally, a number of initiatives have been taken with the purpose of informing and changing the attitude of different target groups with a view to stopping discrimination. For instance, towards the end of 1994, the Ministry of the Interior launched a campaign particularly directed at the young.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

11. Denmark has a total population of 5.2 million and as of January 1994, the number of immigrants and recognized refugees amounted to 189,000 or 3.6 per cent of the entire population. Of these some 133,000 persons came from so-called third countries (i.e. countries outside the Nordic region and the European Union). The largest groups of third country nationals were Turks (34,658), citizens of the former Yugoslavia (11,618), stateless persons (10,427), Iranians (7,939), Pakistanis (6,368) and Sri Lankans (5,782).

12. These numbers do not include asylum seekers and citizens of the former Yugoslavia who fall under a temporary protection scheme, currently some 19,000 persons. Until they are granted refugee status or other

semi-permanent warranty of residence, these groups have a special legal status and, consequently, they do not enjoy the same social rights as other aliens in Denmark. It should be stressed, however, that they do enjoy the general protection of Danish law, including provisions against racial discrimination. Furthermore, special legislation has been implemented in order to improve the social conditions of these persons.

13. The above numbers also do not reflect that a number of people of foreign origin have achieved Danish citizenship. It should also be mentioned that some 10,000 persons living in Denmark were born in Greenland, most of whom must be considered to be ethnic Greenlanders.

14. Regarding Turks, citizens of the former Yugoslavia and Pakistanis, as referred to above, these groups are primarily composed of immigrants who arrived in the 1960s and 1970s and persons who have entered Denmark later subject to the rules of family reunion. The fact that the relatively massive immigration commenced in the 1960s means that a second generation springing from these groups is growing up as part of Danish society. The Iranians and Sri Lankans are mostly refugees and family members who have arrived in Denmark in more recent years.

15. The different groups have settled all over Denmark and have thus become part of local community relations. Furthermore, immigrants and refugees are also the theme of a wide public debate. Both in local as well as in wider social contexts, immigrants and refugees are generally met with respect. However, in both contexts actions or utterances of intolerance and disrespect do occur to some extent. Outright racial discrimination is rare compared to the kind of intolerance which springs from a general and often irrational fear of social change and of strangers.

16. There are two strands to Danish policy to eliminate racial discrimination, which relies both on measures aimed directly at racial discrimination such as legislation and information and on more indirect measures to increase tolerance and further integration in its broadest sense. The latter includes comprehensive integration programmes for refugees in particular as well as more overall efforts to improve local community relations.

17. In Danish law, the basic assumption is that of equality between Danish citizens and citizens of other countries with permanent residence permits. Consequently, the right to work, the right to receive social benefits, the right to housing, etc. are the same for aliens and for Danes. One of the few exceptions is that only Danish citizens are entitled to vote in general elections whereas immigrants and refugees can vote in local elections, subject only to the requirement of three years' residence prior to the election (the same applies to Nordic citizens).

18. Beyond the basic assumption of equality, Danish law contains several provisions aimed directly at eliminating racial discrimination or similar types of discrimination or unequal treatment.

19. Firstly, section 266 (b) of the Danish Penal Code states that "Any person who publicly or with the intention of disseminating it to a wide circle of

people, makes a statement or imparts other information, threatening, insulting or degrading a group of persons on account of their race, colour, national or ethnic origin, belief or sexual orientation, shall be liable to a fine, simple detention or imprisonment for a term not exceeding two years".

20. Secondly, Act No. 626 of 29 September 1987 warrants penalties for discrimination in establishments and at arrangements open to the public.

21. Thirdly, Act No. 466 of 30 June 1993 on the Racial Equality Board establishes a mechanism to combat unequal treatment in all its aspects and to support equal opportunities for all ethnic groups in society (the Act is annexed to this report and marked annex II).

22. In addition to the above-mentioned legislation, Denmark has initiated several schemes to further integration and tolerance. The Danish Refugee Council runs an important integration programme for refugees, including courses on vocational and language skills, assistance in connection with social benefits, cultural events, etc. In 1993, a number of ministries also joined forces to improve urban problems characteristic of residential areas with large numbers of social clients, refugees and immigrants: a combination which has proved to be a breeding-ground of antagonism and intolerance. Through financial measures as well as social innovations such as activation programmes, the Danish Government will spend approximately DKr 1.6 billion over the next four years to turn this development around and improve community relations and the attitudes of residents. Other special measures to increase tolerance will be mentioned in relation to article 7 of the Convention.

23. Finally, it should be mentioned that new initiatives are expected to be taken in the course of the next few years not least due to the setting up of the Board for Ethnic Equality.

24. As stated in the second periodic report, section 70 of the Danish Constitution (Grundloven) provides that "no person shall be denied the right to full enjoyment of civil and political rights by reason of his creed or descent; nor shall he for such reasons evade any common civil duty". Furthermore, as mentioned in the third periodic report, part II, section 78 (2) of the Constitution provides that "associations employing violence or attempting to attain their aims by violence, by instigation to violence or by exerting similar punishable influence on dissentients shall be dissolved by judgement of a court of law". In the same section, subsection 3, regarding intervention against the association itself, the Act stipulates that "no association may in principle be dissolved by government measure. However, an association may be temporarily prohibited, provided that immediate proceedings are initiated for its dissolution". As regards the procedure in connection with the dissolution of associations please see below.

25. If the activities of an association are illegal, for instance in that the said association is pursuing the aim listed in section 266 (b) of the Danish Penal Code (see the paragraphs concerning article 4 below), the usual sanctions might be applied in order to intervene. If, as is the case in this example, it regards punishable offences, the parties involved might, according to the circumstances, be held liable subject to criminal law.

26. Regarding the distribution of taxable income for married couples and singles born in and outside Greenland respectively, please see the statistics annexed to this report and marked annex II1. It should be noted that changes to the collection of data have now made it possible to show more details than in previous reports.

27. The size and the composition of the population with regard to place of birth in or outside Greenland as well as number and distribution of public-sector employees in Greenland with regard to place of birth also appear from the statistics annexed to this report and marked annex III.

Article 3

28. Denmark has worked vigorously for more than 25 years in various forums and ways to dismantle apartheid and help the transition to democracy in South Africa. This goal was finally reached in a peaceful way with the election of a democratic government in April 1994. After the elections in April 1994, Denmark lifted all remaining sanctions against South Africa.

29. Denmark has initiated a programme of transitional assistance to South Africa of approximately US$ 115 million over a period of five years. The programme will focus on four main areas: democratization and violence prevention, land reforms and rural development, education, and black private sector and employment promotion.

Article 4

General Description

30. Subject to section 266 (b) of the Penal Code any person "who publicly or with the intention of disseminating it to a wide circle of people, makes a statement or imparts other information threatening, insulting or degrading a group of persons on account of their race, colour, national or ethnic origin, belief or sexual orientation" might be sentenced to a fine, simple detention or imprisonment for up to two years. The scope of application of this provision was widely extended in 1971 with a view to Denmark's ratification of the United Nations Convention on the full Elimination of All Forms of Racial Discrimination (see, in particular, the initial report, the second periodic report, the fourth periodic report, the seventh periodic report, the eighth periodi- report, and the ninth periodic report).

31. The terms "statement" and "other information" extend to written as well as oral means of expression, including pictures. The phrase "threatening, insulting or degrading" implies that the provision might also pertain to

expressions or, for instance, drawings that are degrading without being insulting. Criminal insult or degradation might, according to the circumstances, be expressed by contempt, ridicule, etc. without consideration for whether the statement is true or false.

32. Scientific theories on racial, national or ethnic differences do not, however, fall within the scope of the offences described in section 266 (b) of the Penal Code. Furthermore, statements which are not made in an actual scientific context but which otherwise form part of a serious debate will, according to the circumstances, be unpunishable. The same applies to statements of a less serious character. In the so-called "greenjacket case", the Court of Human Rights, in its judgement of 23 September 1994, held by 12 votes to 7 that a journalist's right to freedom of expression subject to article 10 had been violated by his conviction under the provision for having broadcast a feature in the Sunday News Magazine on TV in which some "greenjackets" made racist statements (see para. 8).

33. The punishable offences subject to section 266 (b) are furthermore restricted to statements or other information made "publicly or with the intention of disseminating". This phrase provides that statements made as part of a private conversation without the intention of wide dissemination will, according to the circumstances, also fall outside the scope of criminal law. Moreover, the information must be directed at "a group of persons on account of their race, colour, national or ethnic origin, belief or sexual orientation". The inclusion of sexual orientation was added to the provision by amendment in 1987 and was mainly directed at homosexuality. The restriction of the provision stipulating that the insult, etc. must relate to "a group of persons" means that statements directed at one individual person which cannot, at the same time, be considered an insult or threat to the group to which the person in question belongs are excluded from section 266 (b) of the Penal Code. Such statements will, however, according to the circumstances, be punishable subject to the regulations of the Penal Code relating to privacy and defamation.

34. Criminal liability subject to section 266 (b) is not limited to the person who makes the statement but also extends, according to the circumstances, to anyone "who by instigation, advice or action" is an accessory to the violation of section 266 (b) in pursuance of the usual regulations on assistance contained in section 23 of the Penal Code.

35. The penalty for violating section 266 (b) is as mentioned above: a fine, simple detention or imprisonment for up to two years. This penalty corresponds to the penalty for offences such as threats to life under section 266 of the Penal Code (cf. para. 36) and defamation under section 268 of the Penal Code. When the maximum penalty of section 266 (b) was fixed at up to two years' imprisonment, it was taken into account that in the most serious cases, for instance threats of grievous bodily harm, other provisions of the Penal Code warranting stricter penalties will always have been violated as well. Additionally, the fact that a violation of section 266 (b) has been committed by several perpetrators jointly could influence the sentence (note sect. 80 (2) of the Penal Code subject to which such joint action is in principle considered as an aggravating circumstance. Concerning sect. 80 (2), see the second periodic report).

36. As mentioned in, for instance, the second periodic report, page 5, other provisions of the Penal Code could extend to instigation to and/or commitment of violent acts against certain groups of persons or racial persecution. Consequently, one or several of the provisions in chapter 25 of the Penal Code on offences against life and body, for instance violence (cf. sects. 244-246 of the Penal Code), might be applied to warrant liability, perhaps together with section 23 of the Penal Code on assistance. Furthermore, with regard to, for instance, threats to life, section 266 of the Penal Code will extend to anyone "who in a way which might provoke in someone serious fear for his own or other persons' lives, health or well-being, threatens to commit a punishable act". The penalty for this offence corresponds to the penalties of section 266 (b) of the Penal Code: a fine, simple detention or imprisonment for up to two years.

37. Criminal liability subject to section 266 (a) on instigation to violence or vandalism might, according to the circumstances, also be applicable. Anyone "who publicly makes statements intended at provoking acts of violence or vandalism in cases where sections 136 and 266 do not extend to the offence in question" might thus be sentenced under this provision to simple detention or imprisonment for up to one year or, under mitigating circumstances, to a fine.

38. The provision referred to in section 136 of the Penal Code renders criminal certain kinds of instigation to criminal offences and, in addition to the ordinary regulations on assistance under section 23 of the Penal Code, it is of particular importance in cases where the conditions for imposing criminal liability for assistance are absent due to the fact that the offence instigated cannot be adequately specified.

39. Concerning individual criminal liability, see section 291 of the Penal Code on vandalism which is also referred to in the second periodic report. Committing vandalism based on, for instance, racist motives will thus, according to the circumstances, be covered by section 291 which provides a maximum penalty of up to four years' imprisonment.

40. Concerning the Act on the prohibition of discrimination on account of race, etc., see the comments below concerning article 5 for further information.

41. The Marketing Act (see Consolidated Act No. 594 of 27 June 1986) includes a number of provisions on the penalty for false or misleading marketing which might be applied in connection with racist marketing. The Act has previously been mentioned in the fourth periodic report, which includes parts of sections 1, 2 and 15 of the Act, and the seventh periodic report, mentioning the Consumer Ombudsman's report on the treatment of complaints about racist marketing. On the application of the Marketing Act in cases of racist marketing in the period from 1989 to 1993, see paragraph 47.

42. The Act on the Parliamentary Ombudsman (see Consolidated Act No. 642 of 17 September 1986) has been mentioned in a number of previous periodic reports. The Ombudsman supervises, among other things, the civil administration of the State and might in this connection, for instance, order the Prosecution to carry out a preliminary investigation or institute

proceedings before the ordinary courts for offences committed under public service or duties, including, for instance, violation of the prohibition of racial discrimination, and order the governmental authority in question to initiate a disciplinary case (see sect. 9 (1) and (2) of the Act on the Parliamentary Ombudsman). According to the same section, subsection 3, the Ombudsman might inform the person or authority in question of his opinion of the case. Regarding such cases brought before the Ombudsman in the period from 1989 to 1993, see paragraph 47.

43. As mentioned in paragraph 27, section 78 (2) of the Constitution provides that associations employing violence or attempting to attain their aims by violence, by instigation to violence or by exerting similar punishable influence on dissentients shall be dissolved by judgement of a court of law. Concerning the implication of this provision on article 4 (b) of the Convention on the Elimination of All Forms of Racial Discrimination, see the second periodic report, the third periodic report, the fourth periodic report, and the fifth periodic report.

44. Detailed regulations on the dissolution of such associations are laid down in the Danish Administration of Justice Act. Subject to section 684 (1) (2) of the Administration of Justice Act, cases in which the State advances a claim to have an association dissolved are subject to criminal law. Pursuant to section 701 (1) of the Administration of Justice Act, cases subject to section 78 of the Constitution concerning the dissolution of an association are to be brought before court in the circuit where the association or its board is domiciled or, in case of doubt, before a court in the circuit where one of the board members resides. Cases concerning the dissolution of political associations may also be brought before the Supreme Court (see sect. 78 (4) of the Constitution and sect. 966 (5) of the Administration of Justice Act).

45. Section 78 (5) of the Constitution provides that the legal effects of the dissolution shall be laid down in detail by law. Consequently, it has been decided in section 75 (5) of the Penal Code that in cases involving the dissolution of an association by judgement of a court of law, the funds, files, protocols and the like of the former association may be confiscated.

46. Furthermore, section 132 a (1) of the Penal Code stipulates that anyone "who participates in the continuation of the activities of an association after it has been prohibited temporarily by the Government or dissolved by judgement of a court of law" might be sentenced to simple detention or imprisonment for up to one year. Moreover, section 132 a (1 (2)) provides that anyone "who becomes a member of such an association after the prohibition or the dissolution" may be sentenced to a fine or simple detention.

Judicial measures

47. Neither the Parliamentary Ombudsman nor the Consumer Ombudsman has since the submission of the ninth periodic report on 16 August 1989 considered cases which might give rise to comments in the tenth, eleventh and twelfth periodic reports. The period from 1993 to 1995 will be dealt with in the next periodic report submitted by Denmark.

48. In the reporting period, the courts have passed convictions in three cases for violations of section 266 (b) of the Penal Code. One conviction was passed in 1992, two in 1993. The period from 1993 to 1995 will be dealt with in the next periodic report submitted by Denmark.

49. In the first case, a person was, among other things, convicted of having called two Turks perkersvin when they entered a kiosk (in Danish slang, perker is derogatory for Pakistanis and Turks and svin means pig).

50. In the second case, a person was convicted of violating section 266 (b) for having repeatedly posted bills with drawings and texts containing very negative statements and claims directed at Turks. The penalty was fixed at 10 days' simple detention but out of consideration for the defendant's age (73 years old) and due to the circumstances, the sentence was suspended.

51. The third case also concerned the production and posting of a number of bills with pictures as well as text containing insulting and degrading statements about certain groups. By way of explanation the defendants stated that they feared that there were too many foreigners in the country and that they wanted to provoke the population to awareness of the problem and to start a debate about the Danish refugee policy. The penalty was set at 20 daily fines of DKr 125 for each of the defendants.

52. In the reporting period, defendants in two cases were sentenced to a fine for violating section 1 (2) of the Racial Discrimination Act, the court stipulating that a penalty shall be imposed on anyone who, within a trade or business or a non-profit undertaking, on account of a person's race, colour, national or ethnic origin, refuses that person admission on the same terms as anybody else to a place, performance, exhibition, gathering or the like open to the public. One case is from 1989, the other from 1994.

53. The first case involved a restaurant owner who had refused two foreigners admission to play billiards in the restaurant on account of their ethnic origin. The defendant stated that on the day in question he had refused several persons of foreign as well as Danish origin admission and that many foreigners played billiards in his restaurant daily. The defendant admitted to having said to the two foreigners that he refused them admission on account of their ethnic origin, but he later excused himself by saying that he was tired. The defendant later expressed regret for his statement which he said did not reflect his general attitude. On this basis, the defendant accepted to pay a fine of DKr 600.

54. In the other case, a person working as a doorman at another restaurant was charged with having refused a person admission to the restaurant on account of the dark colour of his skin. The defendant stated that during the previous weekend, there had been a lot of pickpockets at the restaurant and the restaurant suspected the perpetrators of the thefts to be dark-skinned persons. For this reason, and to protect the other guests, the defendant had decided to refuse all dark-skinned persons admission to the restaurant. The following weekend, the defendant had again allowed everyone admission to the restaurant. On this basis, the defendant accepted to pay a fine of DKr 1,000.

55. In the reporting period, the courts have in one single case acquitted a person for violating section 266 (b) of the Penal Code. The case which dates back to 1993, concerns a person who, in a letter to a group of contractors, described the entry of refugees into Denmark as "a public danger" and compared the refugees to a "bunch of deceivers". On the reason for the acquittal, it is stated in the judgement that the statements could not be considered of serious enough nature to fall within the scope of section 266 (b) of the Penal Code.

56. In a judgement from 1994, the Eastern Division of the High Court convicted some persons charged with violating section 266 (b) of the Penal Code for the burning of a cross placed against a wooden fence in the garden of a Turkish family. It is stated in the judgment that it is based on the fact that the defendants had intentionally placed the burning cross in the road outside a house they knew was inhabited by Turks. Under such circumstances, the High Court found it indisputable that the act involved a threat, an insult or a degradation of the inhabitants of the house on account of their ethnic origin and that the defendants were aware of this, and of the fact that their statement would be disseminated to a wide circle; the Court consequently found them guilty.

57. In some instances the police or the Prosecution has dropped charges of violations of section 266 (b) of the Penal Code, the Racial Discrimination Act and the Marketing Act for various reasons. When investigations have either not been initiated or have been terminated at a later point, it might be due either to the fact that it has not been possible to find the perpetrator or that the existing evidence has in other regards proved to be inadequate, for instance subject to the provision of section 266 (b) of the Penal Code stipulating that the perpetrator must have had the intent to disseminate a racist statement to a wide circle of people. What is characteristic of such cases which, for instance, involve degrading statements about persons of foreign origin using expressions such as "dark pig" and "black pig", posting of racist bills, handing out of Nazi handbills, etc., is that besides the evidential aspects, questions regarding the application of section 266 (b) could also be raised.

58. Cases have also been closed by the Prosecution with reference to the fact that the objective substance of the offence has not been realized through the act in question. To illustrate this point, an incident from 1992 might be mentioned in which the Ministry of Justice agreed to a decision of the Director of Public Prosecution (Rigsadvokaten) according to which the qualifying demand as to the seriousness of the piece of information considered implicit in the phrase "threatening, insulting or degrading" of section 266 (b) of the Penal Code, as mentioned above, did not extend to some statements made in a book on Islam.

59. In the decision general reference is made both to the fact that section 266 (b) of the Penal Code is presumably to be interpreted narrowly out of regard to the freedom of expression and that the provision does not extend to all critical statements about, for instance, a certain religion or a person with a certain religious belief, not even if the critical statements might be undocumented or perhaps even completely untrue.

60. In the background to the decision of the case, it is furthermore underlined that the statements dealt with were part of the writer's usual argument that Denmark must show great reluctance in permitting aliens practising Islam to reside in the country. It is stipulated in this connection that it is not punishable in itself to express such an attitude or to argue in favour of it. Statements put forward as part of an argument to express an attitude of a general political nature must thus presumably be of a certain serious character before they are considered to be covered by section 266 (b) of the Penal Code.

61. Finally, a small number of cases were initiated after the submission of the ninth periodic report and are still pending with the police or the Public Prosecutor.

62. In the period covered by this report, the Eastern Division of the High Court has, in a judgement of 22 January 1991 published in the Weekly Law Journal 1991, page 358 (Ugeskrift for Retsvæsen) considered the question whether a local authority is entitled to take into account the nationality of tenants when accepting such tenants for social housing. The case was previously mentioned in the ninth periodic report of Denmark (para. 11), in which it was stated that the Parliamentary Ombudsman had refrained from considering the case since it had been dealt with by Parliament.

63. Subsequently, the person who had complained to the Parliamentary Ombudsman filed suit against the local authority of Ishøj. The background for the trial was that the person in question had been recommended for a vacant flat in a social housing complex of which he was a member. He was, however, not approved by the local authority in question as the local authority argued that the quota of aliens had been filled and that that specific part of the complex was overcrowded. Later, the person in question was recommended for a flat in another complex and in that case, the local authority of Ishøj again refused to accept the person since the local authority deemed that the complex in question could not hold more tenants of the same nationality.

64. The Eastern Division of the High Court in its judgement held that the way the local authority administered its power of acceptance had resulted in the fact that people of foreign nationality looking for housing had not in a number of cases been accepted as tenants only on account of their nationality.

65. The High Court found that the applicable Danish legislation, including Act No. 289 of 9 June 1971 on discrimination on account of race etc., did not warrant the procedure followed by the local authority. The High Court did not in this connection find that it made any difference that the higher goal of the outlined arrangement, according to the local authority, was to ensure among other things a reasonable integration of new foreign inhabitants.

66. The Court found in favour of the plaintiff in his principal claim subject to which the local authority was ordered to recognize that it was not entitled to refuse to accept a tenant because the person was a foreigner. The argument that the quota of foreigners was used up or that the specific part of the complex could not hold any more foreigners was rejected and the recommendation of the local authority to housing associations not to rent flats out to immigrants was held not to be in accordance with law.

Article 5

67. Simultaneously with the amendment of section 266 (b) of the Penal Code in 1971 (see para. 30), special legislation on the prohibition of discrimination on account of race etc. was implemented by Act No. 289 of 9 June 1971 which also aimed at making Danish ratification of the International Convention on the Elimination of All Forms of Racial Discrimination possible. The act was amended in 1987 to include "sexual orientation" corresponding to the parallel amendment of section 266 (b) of the Penal Code. The Act has previously been mentioned in the initial report, the second periodic report, the third periodic report, the fourth periodic report, the eighth periodic report, and the ninth periodic report.

68. Subject to section 1 (1) of the Act, anyone "who within a trade or business, or a non-profit undertaking, on the ground of a person's race, colour, national or ethnic origin or religion refuses to serve the person in question on the same conditions as others" shall be liable to a fine, simple detention or imprisonment for up to six months. The provision extends to serving or services of any kind offered to the public within trade or business or within a non-profit undertaking. Consequently, the provision extends to, for instance, services from sales, repair and service outlets of any kind, whatever their nature, of a shop, a workshop, a clinic or the like, access to medical and dental treatment as well as legal and architectural assistance, access to transportation of all kinds offered to the public, including private taxis, as well as access to service in restaurants, hotels, boarding houses, etc. Furthermore, the provision extends to professional sale and leasing, including sub-leasing, of property, flats or parts of these as well as leasing by housing associations.

69. The business does not have to be the main occupation of the owner and it is irrelevant whether it yields and/or aims at yielding a profit.

70. The provision extends to both the person carrying out and the person giving the order to commit the act of discrimination regardless of whether the person in question is responsible for the business or an employee.

71. An explicit refusal in response to a request for service as well as failure to serve without any explicit refusal both constitute refusal to serve.

72. The provision furthermore extends to increases of prices or other unfavourable conditions for persons of a certain race or the like (cf. the expression "on the same conditions as others").

73. The penalty for violation of this provision is usually milder than for offences subject to section 266 (b) of the Penal Code. The maximum penalty has therefore been fixed at only up to six months' imprisonment.

74. Subject to section 1 (2) of the Act, the same penalty as in section 1 (1) shall apply to anyone "who on any of the grounds mentioned in the foregoing subsection refuses to give a person admission, on the same conditions as others, to any place, performance, exhibition, gathering or the like open to the public". The provision extends to, for instance, public parks and the

like, any public exhibition, etc., that is theatres, cinemas, concerts, circus performances, presentations, etc., as well as any kind of sports arrangements, exhibitions and the like open to the public.

75. As regards the circumstances relating to section 266 (b) of the Penal Code, the penalty clauses of section 1 only extend to intentional violations (see sect. 2 of the Act). To ensure that the purpose of the Act is fulfilled, it has, however, been considered necessary to extend the fine liability to include collective units. In section 3 of the Act, it is therefore stipulated that when the offences mentioned in section 1 have been committed by a limited liability company, a cooperative society or the like, the company or society might be ordered to pay a fine.

Article 6

76. As regards guarantees ensuring efficient protection and efficient legal means against acts of racial discrimination, see the above concerning article 4.

77. On the right to seek just and reasonable compensation or redress through the courts for any damage suffered as a consequence of an act of racial discrimination, see the second periodic report, for the account of the provision of section 15 of the Act, applicable at that time, on the entering into force of a penal code.

78. The principles governing compensation with regard to financial as well as non-financial damage are unchanged. Regulations on compensation are now included in the Act on the liability to pay damages (see Consolidated Act No. 599 of 8 September 1986, with later amendments). According to section 1 (1) of the Act, any person liable for payment of personal damages must pay for lost earnings, health care expenses and other losses consequent to the damage as well as damages for pain and suffering.

Article 7

79. The equality of people is a guiding principle for the Danish public and in Danish education, media and private institutions. One example is the policies of Danish television stations which broadcast programmes on foreign cultures and on problems encountered by refugees and immigrants in Denmark. Another basic feature of Danish society is the generally fair and open way in which public institutions, including libraries and schools, deal with people regardless of their origin. The account below concentrates on particularly relevant public measures with regard to education, teaching, culture and information.

80. Extensive descriptions and updates of measures which give effect to the provisions of article 7 concerning education and teaching have been presented in Denmark's previous reports, to which reference is made. Furthermore, the Danish Government is currently examining the possibilities for a renewed effort to facilitate dealing with such issues as racial discrimination, intolerance and human rights in public school teaching. This being said, it should be reiterated that many teaching materials concerning these issues already exist and are being used at the discretion of teachers.

81. In 1994, the Ministry of the Interior administered a fund of DKr 8 million, the objective of which was to further understanding, tolerance and openness between Danes and people of foreign origin by supporting meetings and cultural events in local communities as well as through information campaigns. The Ministry of Cultural Affairs administers a fund, for which DKr 2 million were appropriated in 1994, to support local groups making a special effort to further the participation of refugees in sports. The Danish Government finds that the meeting of Danes and people of foreign origin in such everyday situations as sports activities is an excellent vehicle for promoting mutual respect and tolerance.

82. In addition to the above, it should be mentioned that the Ministry of the Interior publishes a fortnightly newsletter on all aspects of Danish policy and administration relating to aliens. The Danish Red Cross also publishes an informative newspaper mainly concerning asylum-seekers to facilitate the acceptance of new asylum centres and their inhabitants by local communities. The Danish Refugee Council publishes a lot of material to further understanding of the plight of refugees worldwide and in Denmark. Furthermore, the Danish Centre for Human Rights and a number of NGOs sponsored by public funds make a significant effort to inform the public on racial discrimination, issues of tolerance and international human rights conventions. The new Board for Ethnic Equality is also expected to engage in public information efforts. It should also be mentioned that the Danish Government has appropriated DKr 12 million for activities in Denmark within the framework of the European Youth Campaign against Racism, Xenophobia, Anti-Semitism and Intolerance initiated by the Council of Europe Summit in October 1993. Finally, many other public and private information initiatives promoting tolerance have been taken in various media, at meetings and by other means.

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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1995

Note by the Secretary-General

1. Thirteenth periodic reports under article 9, paragraph 1 (b), of the Convention are due in 1995 from seven States parties. The table below contains the list of the seven States parties in alphabetical order, the dates on which their thirteenth periodic reports are due, the symbol numbers of the documents containing their initial, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth periodic reports and the summary records of the meetings of the Committee at which such reports were considered.

2. The thirteenth periodic reports of States parties listed below will be issued in addenda to this document.

GE.95-16139 (E)

States parties	Date on which thirteenth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh and (12) twelfth periodic reports	Summary records
Bolivia	21 October 1995	(1) CERD/C/R.25/Add.2	CERD/C/SR.69
		(2) CERD/C/R.53/Add.7 and Add.8	CERD/C/SR.201 and SR.233
		(3) CERD/C/R.78/Add.3	CERD/C/SR.270
		(4) CERD/C/R.100/Add.1	CERD/C/SR.368
		(5) CERD/C/107/Add.1 and Add.5	CERD/C/SR.658
		(6) CERD/C/107/Add.1 and Add.5	CERD/C/SR.658
		(7) CERD/C/107/Add.1 and Add.5	CERD/C/SR.658
		(8) Not yet received	-
		(9) Not yet received	-
		(10) Not yet received	-
		(11) Not yet received	-
		(12) Not yet received	-
Canada	12 November 1995	(1) CERD/C/R.25/Add.5 and Corr.1 (English only)	CERD/C/SR.97-SR.98
		(2) CERD/C/R.53/Add.6	CERD/C/SR.188
		(3) CERD/C/78/Add.6	CERD/C/SR.297-SR.298
		(4) CERD/C/52	CERD/C/SR.425-SR.426
		(5) CERD/C/50/Add.6 and Add.7	CERD/C/SR.522
		(6) CERD/C/76/Add.6 and Add.7	CERD/C/SR.633-SR.634
		(7) CERD/C/107/Add.8	CERD/C/SR.778 and SR.781
		(8) CERD/C/132/Add.3	CERD/C/SR.778 and SR.781
		(9) CERD/C/159/Add.3	CERD/C/SR.905-SR.906
		(10) CERD/C/185/Add.3	CERD/C/SR.905-SR.906
		(11) CERD/C/210/Add.2	CERD/C/SR.1043-1044
		(12) CERD/C/240/Add.1	CERD/C/SR.1043-1044

States parties	Date on which thirteenth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh and (12) twelfth periodic reports	Summary records
Finland	16 August 1995	(1) CERD/C/R.25/Add.3	CERD/C/SR.69
		(2) CERD/C/R.53/Add.2	CERD/C/SR.183
		(3) CERD/C/R.78/Add.4	CERD/C/SR.271
		(4) CERD/C/21	CERD/C/SR.369-SR.370
		(5) CERD/C/50/Add.3	CERD/C/SR.467-SR.468
		(6) CERD/C/76/Add.4	CERD/C/SR.585
		(7) CERD/C/107/Add.3	CERD/C/SR.687-SR.688
		(8) CERD/C/132/Add.1	CERD/C/SR.757
		(9) CERD/C/159/Add.1	CERD/C/SR.866-SR.867
		(10) CERD/C/185/Add.1	CERD/C/SR.866-SR.867
		(11) Not yet received	-
		(12) Not yet received	-
Greece	19 July 1995	(1) CERD/C/R.25/Add.1 and Add.7	CERD/C/SR.68 and SR.107-SR.109
		(2) CERD/C/R.53/Add.4	CERD/C/SR.184
		(3) CERD/C/R.78/Add.5	CERD/C/SR.270-SR.271
		(4) CERD/C/41	CERD/C/SR.421-SR.422
		(5) CERD/C/50/Add.2	CERD/C/SR.472
		(6) CERD/C/76/Add.1	CERD/C/SR.576-SR.577
		(7) CERD/C/107/Add.7	CERD/C/SR.714-SR.715
		(8) CERD/C/210/Add.1	CERD/C/SR.940-SR.941 and SR.950
		(9) CERD/C/210/Add.1	CERD/C/SR.940-SR.941 and SR.950
		(10) CERD/C/210/Add.1	CERD/C/SR.940-SR.941 and SR.950
		(11) CERD/C/210/Add.1	CERD/C/SR.940-SR.941 and SR.950
		(12) Not yet received	-

States parties	Date on which thirteenth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh and (12) twelfth periodic reports	Summary records
Iraq	15 February 1995	(1) CERD/C/R.25	CERD/C/SR.68
		(2) CERD/C/R.53/Add.1 and Corr.1	CERD/C/SR.182
		(3) CERD/C/R.78/Add.1	CERD/C/SR.275
		(4) CERD/C/50/Add.1	CERD/C/SR.458-SR.459
		(5) CERD/C/50/Add.1	CERD/C/SR.458-SR.459
		(6) CERD/C/76/Add.5	CERD/C/SR.631-SR.632
		(7) CERD/C/107/Add.2 and Add.6	CERD/C/SR.683
		(8) CERD/C/132/Add.2	CERD/C/SR.765-SR.767
		(9) CERD/C/159/Add.2	CERD/C/SR.917 and SR.920-SR.922
		(10) CERD/C/185/Add.2	CERD/C/SR.917 and SR.920-SR.922
		(11) Not yet received	-
		(12) Not yet received	-
Norway	6 September 1995	(1) CERD/C/R.25/Add.4	CERD/C/SR.96-SR.97
		(2) CERD/C/R.53/Add.5	CERD/C/SR.185
		(3) CERD/C/R.78/Add.7 and Add.9	CERD/C/SR.300 and SR.328-SR.329
		(4) CERD/C/22	CERD/C/SR.372
		(5) CERD/C/50/Add.5	CERD/C/SR.470-SR.471
		(6) CERD/C/76/Add.2	CERD/C/SR.565-SR.566
		(7) CERD/C/107/Add.4	CERD/C/SR.688-SR.689
		(8) CERD/C/132/Add.5	CERD/C/SR.836
		(9) CERD/C/159/Add.4	CERD/C/SR.836
		(10) CERD/C/210/Add.3	CERD/C/SR.1032-1033
		(11) CERD/C/210/Add.3	CERD/C/SR.1032-1033
		(12) Not yet received	-
Romania	14 October 1995	(1) CERD/C/R.25/Add.6	CERD/C/SR.106-SR.109
		(2) CERD/C/R.53/Add.3	CERD/C/SR.183
		(3) CERD/C/R.78/Add.2 and Add.8	CERD/C/SR.295-SR.296
		(4) CERD/C/42	CERD/C/SR.422
		(5) CERD/C/50/Add.4	CERD/C/SR.469-SR.470
		(6) CERD/C/76/Add.3	CERD/C/SR.579-SR.580
		(7) CERD/C/132/Add.4	CERD/C/SR.821
		(8) CERD/C/132/Add.4	CERD/C/SR.821
		(9) CERD/C/210/Add.4	CERD/C/SR.1090-1091
		(10) CERD/C/210/Add.4	CERD/C/SR.1090-1091
		(11) CERD/C/210/Add.4	CERD/C/SR.1090-1091
		(12) Not yet received	-

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic report of States parties due in 1995

Addendum

BOLIVIA 1/

[27 April 1995]

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1/ The present report constitutes the eighth, ninth, tenth, eleventh and twelfth periodic reports of Bolivia, due respectively on 21 October 1985, 1987, 1989, 1991 and 1993, together with the thirteenth periodic report due on 21 October 1995. For the fifth, sixth and seventh periodic reports of Bolivia and the summary record of the meeting at which the Committee considered the reports, see documents CERD/C/107/Add.1 and Add.5 and CERD/C/SR.658.

The information submitted by Bolivia in conformity with the consolidated guidelines on the initial part of reports by States parties appears in core document HRI/CORE/1/Add.54.

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Introduction

1. After a long period of de facto Governments, and consequently of political instability, democracy was restored to Bolivia in 1982, since when it has endeavoured to consolidate democratic rule while ensuring full respect for the fundamental rights of its citizens.

2. In recent decades, whenever there has been a democratic opening, and especially since 1982, Bolivia has acceded to and ratified many of the main human rights conventions and covenants of the United Nations and other international bodies. One of the conventions which Bolivia has ratified is the International Convention on the Elimination of All Forms of Racial Discrimination, dated 22 September 1970, with whose provisions Bolivia endeavours to comply by means of legislative, judicial and administrative measures.

3. In Bolivia the principles of the inherent dignity and equality of all human beings, proclaimed by the Charter of the United Nations, extend to and are recognized for all the country's inhabitants and residents by virtue of domestic legislation and in particular the Constitution. On the basis of the constitutional rules, those rights are also set out in codes and in specific substantive and procedural acts, supplemented in some cases by supreme decrees.

4. The current Constitution, promulgated by the Act of 2 February 1967 and amended by the Act of 11 August 1994, enshrines the rights in question in Part 1, Title 1, "Fundamental rights and duties of individuals" and protects them by a series of preventive, deterrent and punitive measures contained in Title 2, "Individual safeguards". Several other Titles (in particular Part 1, Title 3; Title 2, Chapter IV; Part 2, Title 3 and Titles 2, 3, 4, 5 and 9 of Part 3) set out the relevant legislation.

5. In accordance with article 6 of the Constitution, "Every human being has legal personality and capacity under the law. He shall enjoy the rights, freedoms and guarantees recognized by this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin, economic or social condition, or any other. Individual dignity and freedom shall be inviolable. It is the fundamental duty of the State to respect and safeguard them".

6. The Constitution is the supreme canon. Consequently, any other legislative or regulative provisions must be subordinate to and in conformity with the Constitution. Article 228 requires the courts, judges and authorities to apply the Constitution in preference to the laws. The primacy of the Constitution is absolute in respect of the fundamental principles, guarantees and civil and political rights, which "may neither be amended by any laws governing their exercise, nor require any prior regulations for their enforcement" (Constitution, art. 229).

7. Any legislative provision adopted in Bolivia must be in accordance with the principles and rules of the Constitution, which extend the broadest possible equality of rights to all human beings. For example, article 9, paragraph 6 of the Educational Reform Act, which was promulgated and published

on 7 July 1994, states that education "is a right and duty of every Bolivian, being organized and dispensed with the participation of the whole of society without restriction or discrimination with respect to ethnic background, culture, region, social status, physical, mental or sensory condition, gender, creed or age ...".

8. The judiciary, and in particular the Constitutional Court and the Supreme Court of Justice, ensure the juridical primacy of the Constitutional rules relating to fundamental rights. The recently established Constitutional Court is the sole instance in "questions of pure law concerning the unconstitutionality of laws, decrees and non-judicial orders of any kind".

9. The Executive, which is responsible for the conduct of external relations, negotiates and enters into agreements and other international instruments. They are approved by the Legislature, which confers on them the status of laws of the Republic and thereby incorporates them into domestic legislation for application by any of the instances of the Judiciary.

10. Accordingly, the International Convention on the Elimination of All Forms of Racial Discrimination, which Bolivia has ratified, is part of the Bolivian legal system, as are all the other human rights covenants and conventions which Bolivia has signed with the international community.

11. In conformity with Bolivian constitutional doctrine, individuals who feel discriminated against or victims of any violation or restriction of their fundamental rights and freedoms may invoke the provisions of the Convention before the courts.

12. In conformity with article 9 of the Convention, we submit this report on the legislative, judicial, administrative and other measures which Bolivia has adopted to give effect to the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.

INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

13. The fundamental measures adopted by Bolivia with a view to "eliminating racial discrimination in all its forms and promoting understanding among all races" include article 1 of the Constitution, which was recently amended by the Act of 11 August 1994, and which states: "Bolivia, free, independent, sovereign, multiethnic and multicultural, constituted as a unitary republic, adopts for its Government the democratic representative form, founded on the union and solidarity of all Bolivians". The practical importance of this constitutional pronouncement is apparent from the fact that Bolivia's territory is inhabited by indigenous peoples such as the Quechua, Aymara and Guaraní, with whom the Bolivian State endeavours to maintain peaceful co-existence and relations through a policy of absolute equality of opportunity in the economic, social and political spheres.

14. Furthermore, article 6 of the Constitution, which specifically relates to the equality of all Bolivians before the law, states: "Every human being has legal personality and capacity, in accordance with the law. He enjoys the rights, freedoms and guarantees recognized by this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin, economic or social condition, or any other".

15. Consequently, the constitutional basis exists for fulfilling the undertakings:

(a) to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) to prohibit and bring to an end, by all appropriate means, racial discrimination by any persons, group or organization;

(e) to eliminate barriers between races and to discourage anything which tends to strengthen racial division.

Special measures

16. Bolivia is a nation composed of various indigenous peoples whose ancestry and traditions have shaped its national identity. To safeguard and protect these peoples, Bolivia has granted them special rights, for example by allocating them geographical areas reserved for their exclusive use (Supreme Decrees Nos. 22609, 22610, 22611 and 22612, dated 24 September 1990).

17. The preambular part of the first of these Decrees states that it is the intention of the Government to formulate policies directed towards the recognition and consolidation of the territories of the indigenous peoples in order to ensure their physical existence and their social, cultural, economic and political development. Articles 1, 2 and 5 of the Decree go on to state as follows:

> "The area traditionally occupied and marked out by the 36 natural landmarks, ancestrally known to the Sirionó people, and located in 'El Eviato', San Javier canton, Cercado province in the department of Beni is hereby recognized as the indigenous territory of the Sirionó people. ... An area of 30,000 hectares in the 'Monte San Pablo', contiguous to 'El Eviato' is also recognized as indigenous Sirionó territory. ... The indigenous Sirionó territory is inalienable, indivisible, imprescriptible and unattachable; the Sirionó may make rational use of the water resources, land, flora and fauna existing therein in accordance with their usages, customs and development requirements ...".

18. The second of the above-mentioned Decrees stipulates that recognition of the Isiboro-Sécure National Park as indigenous territory on behalf of the peoples originating from and living there is not incompatible with its status as a national park, and article 6 states:

> "All construction and development work, and in particular the building or laying of any roadways and pipelines, within the indigenous territory of the Isiboro-Sécure National Park may be carried out only after a prior detailed environmental impact study, duly approved by the Ministry of Rural and Agrarian Affairs, and with the participation of the region's indigenous organization ...".

19. Articles 1 and 16 of the third Decree, No. 22611, state:

> "The Chimanes region is hereby designated an indigenous area, making up the socio-economic space for the survival and development of the indigenous communities and settlements of the Chimanes, Mojeño, Yuracaré and Movima living there ... . Logging firms shall withdraw their installations and equipment from the indigenous territories ...".

20. Lastly, the third Decree, No. 22612, established a committee to draft a bill on the indigenous peoples of the eastern and Amazonian regions, designating the indigenous ethnic groups and peoples, establishing their rights and duties, and defining relations between their traditional internal government structures and the Republic's political and administrative system.

The legacy of the past

21. Despite all the efforts made by the present Government to ensure the well-being of all sectors of Bolivia's population on equal terms, there is a historic legacy of abuses against certain ethnic groups, in areas remote from the population centres. One such case is that of the Guaraní people, many of whose members are exploited by landowners in south-east Bolivia.

22. In its report to the 1994 legislative session, the Human Rights Committee of the Chamber of Deputies made the following observations about the situation of the Guaraní people:

> "The Guaraní people, who live in the provinces of Cordillera de Santa Cruz, Luis Calvo and Hernando Siles de Chuquisaca, survive in inhuman conditions of semi-slavery, entire families being forced to provide compulsory domestic service and held in servitude, as well as being denied access to education and health care, while their lands are systematically confiscated ... . The land problem in the Chaco is characterized by the ceaseless spoliation of some free communities, through legal trickery or de facto seizure ... . Meanwhile the captive communities on the estates do not possess a single plot of their own and face difficulties in sowing crops or raising animals on the patches of land lent them by their boss ... ."

Article 3

23. Bolivia has actively joined all condemnations by the United Nations of racial segregation and apartheid. While the apartheid regime was in force in the Republic of South Africa Bolivia had no trade relations of any kind with South Africa, and when that country instituted democratic changes in 1994 Bolivia publicly welcomed the end of the racist policy there. In June 1994, the Vice-President of Bolivia, Victor Hugo Cárdenas, headed a Bolivian delegation which attended the investiture of President Nelson Mandela in Cape Town. In a key passage of the speech he made on that occasion he said:

> "The victorious outcome of the struggle against racism and segregation, consolidated by the investiture of the first President of South Africa, Nelson Mandela, is a forceful assertion that both Bolivia and South Africa have begun the construction of multi-ethnic, multicultural and multilingual democracy on the firm foundations of national unity and comprehensive social welfare ... . The arduous process of reform under way in Bolivia, at the cost of considerable sacrifice, undoubtedly has a promising future. Not only Bolivia, but the whole world is on the path towards a multicultural democratic system under which different ethnic groups, cultures and customs have their role to play in building democracy in the country ... ."

24. Subsequently, in statements to the international press he said:

> "We Bolivians must give serious thought not only to the normalization of relations with South Africa, including the opening of Bolivia's own mission in that African country ... it is fully recognized that the process of change that has begun in South Africa has been very painful and has involved sacrifices, but it also carries a message for Bolivia in particular, for it shows that the construction of a multi-ethnic and multicultural democracy is no longer a dream ... . Like Bolivia, South Africa is building a multi-ethnic, multicultural and multilingual democracy. We Bolivians have much to learn from the common features of both countries, and we should rejoice that in Bolivia this process of change has not cost as many lives as in South Africa, where the wounds are still recent ... ."

25. Bolivia has ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid and the International Convention against Apartheid in Sports. It has also ratified the Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity, which declares that statutory limitations do not apply to inhuman acts attributable to the policy of apartheid, among other crimes.

26. Lastly, it should be mentioned that Bolivia has supported all the resolutions of the General Assembly and other bodies within the United Nations system, as well as those of other international forums, that have condemned apartheid and provided assistance to its victims.

Article 4

27. In consonance with article 6 of the Constitution, which declares that all people are equal before the law, no Government of Bolivia has approved any legislative or administrative provisions that justify or foment racial hatred and racial discrimination in any form. Here are some provisions of Bolivian legislation that support equality and condemn any type of discrimination:

(a) Civil Code:

"Art. 22. Personal rights and such other rights as are established by this Code shall be exercised by individuals without any discrimination.

Art. 23. Personal rights are inviolable and any infringement of them shall entitle the victim to demand that the violation cease, in addition to claiming reparation for any material or moral injury."

(b) Penal code: The Bolivian Penal Code, which has been in force since 2 April 1973, does not classify racism or any form of social discrimination as an offence; however, it does establish the equality of citizens before the law and penalizes genocide in the following terms:

"Art. 5. Criminal law recognizes no personal exemptions or privileges, but its provisions shall apply to persons aged over 16 at the time of the act.

Art. 138. (Genocide) Anyone who, with the intention of totally or partially destroying a national, ethnic or religious group, inflicts death upon or causes injury to the members of the group, subjects them to inhuman living conditions, imposes measures intended to prevent them from reproducing, or violently effects the displacement of children or adults towards other groups shall be punished by a prison sentence of from 10 to 20 years.

The same punishment shall apply to the perpetrators or other persons directly or indirectly guilty of sanguinary massacres within the country.

If the culprits are authorities or officials, the penalty shall be increased by a fine of from 100 to 500 days' pay."

(c) Family Code:

"Art. 3 (Treatment by the law). The members of the family are entitled to equal treatment by the law in the regulation of conjugal and filial relations, as well as in the exercise of parental authority and in other similar situations; any discriminatory provision or criterion incompatible with the essential worth and dignity of the human person is hereby abrogated."

(d) Minors' Code:

"Art. 4. The provisions of this Code shall apply to all minors on Bolivian territory, regardless of their nationality, religion, and social, cultural or economic status. Protection for minors shall extend wherever applicable to Bolivian minors outside Bolivia.

Art. 15. Every minor has the right to life and to health. The State has the obligation to guarantee and protect these rights, by social policies designed to ensure decent conditions for the gestation, birth and overall development of minors.

Art. 19. The State, through the appropriate agencies, shall ensure that minors enjoy universal and equal access to measures and services for the promotion and restoration of health, and provide for those who need them, medicines, prostheses, and such other requirements for medical treatment, training or rehabilitation as are necessary. To this end, a sliding scale of prices shall be established on the basis of a socio-economic survey."

(e) Popular Participation Act:

"Art. 1. This Act recognizes, promotes and consolidates the process of popular participation by bringing together the indigenous, rural and urban communities in the legal, political and economic life of the nation. It endeavours to improve the quality of life of Bolivian men and women by means of a fairer distribution and better administration of public resources. It strengthens the political and economic instruments necessary to perfect representative democracy by facilitating citizen participation and guaranteeing equality of opportunity at the various levels of representation to men and women."

Art. 2. To achieve the objectives described in article 1, Art. 2 (c) 'Establishes the principle of equal distribution per inhabitant of the joint resources from taxation allocated and transferred to the departments, through the corresponding municipalities and universities, and seeks to correct the historical imbalances between urban and rural areas'.

Art. 8. ... to promote equal access by men and women to levels of representation."

Judicial Measures

28. Pursuant to the provisions of the Constitution and of the Penal Code, Bolivian courts severely punish any offence involving acts of racial, religious or other discrimination. An example of their determination in this regard is the case of the xenophobic "Zarate Wilka" terrorist group which, on 24 May 1989 murdered the United States Mormons Jeffrey Brent Ball and Todd Ray Wilson, out of racial and religious hatred.

29. Parts of the sentence handed down on 21 August 1992 in the above case read as follows:

> "From the various proclamations, messages and other information put forward in the trial the existence of a group of individuals operating under the name of 'Zarate Wilka armed liberation forces' has been incontrovertibly demonstrated ... their main aim was to disrupt and subvert the democratic system of Government established by the Constitution through acts of violence designed to sow fear and to disturb public order and peace, and by harassment of the citizens of specific countries ... the chain of events running from the attack on Teófilo Nina Quispe on 17 July 1988 to the murder of the United States citizens Jeffrey Brent Ball and Todd Ray Wilson, demonstrates the essential indivisibility of the judgement of all these acts in a single trial, on account of their special nature and circumstances, although they occurred at different times and places ... in 1987, on the initiative of Jhonny Justino Peralta, a group was formed that was ultimately to bear the name of 'Zárate Wilka armed liberation forces', whose purpose - as they put it - was to awaken society, by unlawful acts of harassment directed against specific objectives, to the exploitation by the United States of the Latin American countries, including ours, and of the poor and the peasants, ... on 24 May 1989, at approximately 10.15 p.m., they shot Jeffrey Brent Ball and Todd Ray Wilson at point-blank range in the doorway of their home located in José María Achá street, using the same 9 mm automatic weapon with which they had executed Teófilo Nina Quispe ... . Accordingly: the sixth district criminal court of the capital, in the name of the law and by virtue of the ordinary jurisdiction exercised by it, administering justice in the first instance, concurring in part with the indictment contained on pages 1544 to 1576 hereby finds Jhonny Justino Peralta Espinoza, whose particulars are contained in his confession on pages 1757 to 1769, and Victor Eduardo Prieto Encinas, whose particulars are unknown ... guilty of the offences of aggravated terrorism and criminal association, defined and penalized by articles 133-II and 132-I of the Penal Code, and hereby sentences them to a custodial penalty of 30 years' imprisonment to be served in the San Pedro de Chonchocoro prison, in addition to payment of reparation for the civil damages and payment of costs to the State and to the claimants for criminal indemnification ... ."

Article 5

30. The equality of all Bolivians before the law is expressly recognized by article 6 of the Constitution.

31. Article 228 of the Constitution states:

> "The Political Constitution of the State is the supreme canon of the national legal system. The courts, judges and authorities shall apply it in preference to the laws, and shall apply the latter in preference to any other decisions."

32. The Constitution makes no distinction between men and women; its language is generic and accordingly it recognizes both men and women as citizens regardless of their level of education, occupation or income.

33. Article 41 of the Constitution, as amended by Act No. 1585 of 12 August 1994, states:

> "Art. 41. Bolivians, male and female, over 18 years of age, regardless of their degree of education, their occupation or their income shall be citizens."

34. Accordingly, there is a constitutional and legislative basis for guaranteeing the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice.

(i) Article 5 of the Judicial Organization Act states that:

> "The magistrates and judges, when hearing and deciding cases, shall apply the Political Constitution of the State in preference to laws, and shall apply the latter in preference to any other provisions. A special law shall apply in preference to a general one."

(ii) Article 3 of the Prosecution Service Organization Act states:

> "The Prosecution Service shall act in strict subordination to the legal system; whenever appropriate it shall undertake on its own initiative actions inherent in its functions and shall oppose any actions that are brought unduly, to the extent and in the manner prescribed by the Political Constitution of the State and by law."

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution.

(i) The Constitution provides as follows:

> "Art. 12. Any kind of torture, coercion, extortion or other form of physical or moral violence is prohibited, under penalty of immediate removal from office and without prejudice to the sanctions that may be incurred by anyone who applies, orders, instigates or consents to it.
>
> Art. 13. Assaults on the person render the immediate perpetrators responsible, and the fact that in committing the offence they obeyed the orders of a superior shall not serve as an excuse.

Art. 14. No one may be tried by special commissions or turned over to judges other than those designated before the offence was committed, nor shall anyone be compelled to testify against himself in a criminal trial or against blood relatives up to the fourth degree inclusive, or by affinity up to the second degree, as reckoned by civil law."

(ii) In addition, in the case of an offence against or a violation of any of his fundamental rights, any person living on Bolivian territory has the unrestricted right to apply for habeas corpus or for amparo to ensure that due legal form is observed or take proceedings against unlawful acts or undue omissions on the part of officials and individuals. These remedies are provided for in articles 18 and 19 of the Constitution.

(c) Political rights, in particular the right to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.

(i) Articles 219, 220 and 221 of the Constitution provide as follows:

"Art. 219. Suffrage shall constitute the foundation of the representative democratic regime and shall be based on the universal, direct and equal, individual and secret, free and compulsory vote, by public ballot and under the system of proportional representation.

Art. 220. All Bolivians who have reached 18 years of age are voters, regardless of their level of education or their occupation, with no further requirement than obligatory registration on the electoral roll.

Foreign citizens may vote in municipal elections under the conditions prescribed by law.

Art. 221. Citizens who meet the requirements laid down in the Constitution and the laws may be elected to public office."

(ii) Article 3 of the Electoral Act of 5 July 1991 provides:

"The principles of suffrage are the following: (a) The universal, direct, free, compulsory and secret vote. Universal, because all citizens without distinction possess the right to vote; direct, because the citizen participates personally in the election and votes for the candidates of his choice; free, because it expresses the will of the elector; compulsory, because it is a civic duty that may not be renounced; and secret, because the law guarantees the confidentiality of the vote; (b) The public and definitive ballot; (c) The system of proportional representation that guarantees the rights of majorities and minorities".

(d) Other civil rights such as freedom of movement and the rights to nationality, to marriage, to own private property, to inherit and to freedom of opinion, expression and assembly.

(i) The Constitution provides:

"Art. 7. Every person has the following fundamental rights, in accordance with the laws which regulate their exercise:

(b) To express his ideas freely;

(c) To assemble and associate for lawful purposes;

(g) To enter, stay in, pass through and leave the national territory;

(h) To make petitions, individually or collectively;

(i) To own private property, individually or collectively, provided it fulfils a social function.

Art. 3. The State recognizes and upholds the Roman Catholic Apostolic Religion. It guarantees the right to public practice of all other religions ...

Art. 36. The following shall be Bolivians by birth: (1) Persons born on the territory of the Republic, except children of aliens who are in Bolivia at the service of their Government; (2) Persons born abroad to a Bolivian father or mother, by simply settling on Bolivian territory or registering with the consulates.

Art. 37. The following shall be Bolivian by naturalization:

(1) Spaniards and Latin Americans who acquire Bolivian nationality without renouncing that of their origin, provided there exist reciprocal agreements on multiple nationality with their respective Governments.

(2) Aliens who, having resided for two years in the Republic, declare their wish to acquire Bolivian nationality and who obtain a certificate of naturalization in accordance with the law.

The period of residence shall be reduced to one year in the case of foreigners if:

(a) They have a Bolivian spouse or children;

(b) They are engaged in regular agricultural or industrial work;

(c) They perform educational, scientific or technical functions;

(3) Aliens who at the legally required age perform military service;

(4) Aliens who for their services to the country are granted Bolivian nationality by the Chamber of Senators".

(ii) Regarding the right to marriage, the family and motherhood the Constitution provides:

"Art. 193. Matrimony, the family and motherhood are under the protection of the State.

Art. 194. Matrimony is founded upon the equality of the rights and duties of the spouses.

Free or de facto unions that meet the conditions of stability and exclusivity and that are maintained between persons having the legal capacity to marry produce effects similar to those of marriage with respect to the personal and property relations of the partners and as regards the children born to them.

Art. 195. All children, regardless of their origin, have equal rights and duties towards their parents."

(iii) For its part, the Family Code states:

"Art. 5. (Public order) The rules of family law are a matter of public policy and may not be renounced by individual decision, under penalty of nullity, except where the law specifically permits.

Art. 41. The law recognizes only civil marriage, which must be solemnized in accordance with the requirements and formalities specified in this Title.

Art. 44. A male under the age of 16 and a woman under the age of 14 may not contract marriage.

The court may grant a dispensation from the age requirement if there are serious and substantiated grounds".

(iv) Regarding the right to inherit, the main provisions contained in the Civil Code are as follows:

"Art. 1000. A person's succession shall be opened by his actual or presumed death.

Art. 1002. The estate devolves by law or by the will of the deceased as expressed in his testament. In the first case, the heir is an heir at law, in the second a testamentary heir.

The legal heirs may be forced heirs; to whom the succession falls solely by the operation of the law; the others are simply heirs at law,

who are entitled to the succession in default of forced or testamentary heirs.

Art. 108. In order to inherit, a person must exist, i.e. have been born or conceived, when the succession is opened."

(e) The rights to work, to form and join trade unions, to housing, to social security, to education and to participation in cultural activities.

The Constitution contains the following provisions:

"Art. 7. Every person has the following fundamental rights, subject to the laws which regulate their exercise:

(a) To life, health and safety;

(c) To assemble and to associate for lawful purposes;

(d) To work and to engage in commerce, industry or any other lawful activity, provided no harm is done to the public welfare;

(e) To receive an education and to acquire culture;

(j) To fair remuneration for his labour, which will allow him and his family to lead a life worthy of a human being;

(k) To social security, in the form determined by this Constitution and the law.

Art. 21. All homes shall be inviolable; at night, they may not be entered without the consent of the inhabitants, and in the daytime they may be entered only by virtue of a substantial written order from a competent authority, except in case of flagrante delicto (art. 21).

(f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks. These rights are unrestricted and are fully protected and guaranteed by the Constitution and other laws of the Republic."

Legacy of the past and facts of life

35. Despite the genuine efforts made by the democratic Government through the implementation of laws and the adoption of conventions, on account of customs and facts of life which are difficult to change in a short time, equality of men and women before the law is not yet effective in Bolivia.

36. Women are still decidedly in the minority at all levels of decision-making, particularly the highest levels of the Government, in Parliament, in the Judiciary and in political parties. They do not participate sufficiently in governmental decision-making, or in planning Bolivia's development policies, even when they directly affect women. Here are some data that illustrate the situation.

37. There is not a single woman Cabinet Minister, nor is there a woman among the 12 judges who make up the Supreme Court. Out of a total of 147 deputies and senators in Parliament, only 12 are women. Not a single political party is headed by a woman. In the dozens of municipalities in Bolivia's cities and provinces, there is only one woman mayor.

38. Regarding the discrimination that still affects the indigenous woman, in her traditional skirt, the Vice-President of the Republic, Victor Hugo Cárdenas, made the following statement in a press interview:

> "Cárdenas recognizes that progress is slow, though tangible, and does not deny that indigenous communities still suffer from marginalization and racism. For example, his wife, Lidia Katari, a teacher by profession, is unable to teach because she dresses in the traditional Indian skirt, shawl and bowler hat. 'Years ago they told her that she either got rid of that attire or stopped working. She asked for leave and is now in the battle for her own rights and those of the rest of the indigenous population'. The experience of Cárdenas' grandfather was far more bloody: his boss ordered his hand to be cut off because he considered it insolence that he should be able to write. His father had to change his Aymara family name and adopt the Spanish family name from his mother's line ..." (El Pais, Madrid, reproduced in La Razón, La Paz, Bolivia, 27 December 1994).

39. Regarding the equality of all before the law, in its conclusions, the book entitled Estudio del Funcionamiento del Sistema Penal en Bolivia (A study of the operation of the Penal system in Bolivia), published by the Catholic University of Bolivia in June 1994, contains the following observations:

> "3. Selectiveness. There is overwhelming evidence that the criminal legislation in force calls in question the principle of the equality of all before the law, as it unilaterally weighs on the impoverished sectors of society, and ensures that the powerful go unpunished; it displays a singular judicial effectiveness in punishing offences of scant importance while leaving unpunished 'white collar' or organized crime.
>
> Selectiveness begins with the police, who choose, at their own discretion, those who are to be brought before the courts, on the pretext of complying with the principle of legality. In the courts selectiveness comes into play when the judges order, as they invariably do, the pre-trial detention of the accused, and aggravates his situation by requiring bail which he is unable to put up for lack of money.
>
> This selectiveness is perceived both by those involved with the law and by society at large, which ceaselessly repeats that justice has been organized to favour the powerful and on no account the weak and poor.
>
> Since it is virtually impossible to investigate all offences, owing to the lack of infrastructure, the poor organization of the police force and other factors, a solution must be sought through 'controlled selectiveness' or by identifying situations that do not merit criminal prosecution, on the basis of criminal policy guidelines which would in turn avert a build-up of cases.

In order to combat selectiveness on the part of the courts, it would be desirable to ban the time-honoured custom of automatically imprisoning suspects as part of trial procedure; remand in custody should be restricted to cases where its high preventive value makes it advisable, and alternatives to pre-trial detention and personal or financial security for bail should be introduced.

4. Inaccessibility. There is irrefutable evidence that freedom of access to justice is hindered by numerous factors, such as the marginalization of majority groups, the language gap between the citizen and the courts, the complexity of legal terminology, the bureaucratic and formal structure of the law-enforcement apparatus, etc.

Inaccessibility resides not only in the impossibility of gaining entry to the criminal justice system, but also in the fact that it denies litigants rapid and effective solutions to their disputes, owing to cumbersome formalities, high cost, sluggish procedure, inefficiency and the emergence of further problems which leave the impression that justice has been thwarted.

Justice available only to specific social groups is not truly democratic, and its roots can be traced back to the beginnings of the republican system when the law-givers adopted a European system, with complete disregard for the indigenous inhabitants. This anomalous exclusionism has persisted even since the 1973 reform.

If justice is to extend to all sectors of society, the primary concern must be to implement the provisions of the recent Indigenous Peoples Act of 11 July 1991 which, inter alia, advocates the adoption of measures to protect the members of the population, taking into consideration their customs or customary law, whenever they are not incompatible with the fundamental principles of the national juridical system.

Another important step towards solving the problem would be to provide, free of charge, the services of the Official Guardian and to establish a translation and interpretation service for persons who speak native languages, so as to ensure effective and coherent communication between the accused and their judges.

5. Corruption. Although the phenomenon of corruption in the administration of justice has always been perceived as an undeniable fact in Bolivia, for the specific purposes of this inquiry numerical data have been obtained from interviewees to confirm this.

The assertation by those involved in the system that the tools of corruption are not only money, but also the requital of favours and political wirepulling is revealing; the first of these tools is most common among the police and subordinate officials, the latter among magistrates, judges and prosecutors.

Although corruption is a structural problem that will be diminished only by structural measures, it is worth mentioning that the obsolete system of responsibilities worsens the situation as it obstructs quick and transparent administration of justice in cases of misconduct by officials, which shows the urgent need to modernize this means of combating an evil that is disturbingly on the increase."

Article 6

40. By law, the Bolivian State guarantees to all persons living under its jurisdiction effective protection and remedies before the competent national courts and other State institutions against any act of discrimination. Article 16 of the Constitution states:

"An accused person is presumed innocent until his guilt has been proved.

The right of defence of the person on trial is inviolable.

From the moment of his detention or imprisonment, a person being held has the right to be assisted by defending counsel. No one may be sentenced without first having been heard and judged in a legal trial, and no penalty may be served unless it has been imposed by final sentence and by a competent authority. A criminal conviction must be based on a law in effect prior to the trial and subsequent laws may be applied only if they are more favourable to the accused".

41. The Office of the Official Guardian, which is a free State service to assist indigent accused persons, operates in the main cities in Bolivia under the Ministry of Justice. This service has been the responsibility of the National Secretariat for Justice since the promulgation of the Ministries Act, dated 17 September 1993. Supreme decree No. 23253 of 31 August 1992, article 2, states:

"The purpose of the Office of the Official Guardian shall be to ensure that all citizens enjoy the right to fair and impartial administration of justice that reconciles the protection of the social order with respect for individual freedoms".

42. Its most recent official report gives the following data on cases dealt with by the Office of the Official Guardian from January to May 1994:

(a) La Paz. The Office dealt with 1,038 judicial cases and obtained the release of 50 persons and 1,167 police cases with 696 releases;

(b) Cochabamba. The Office dealt with 119 judicial cases and obtained the release of 51 persons, and 292 police cases in which it obtained the release of 175 persons;

(c) Santa Cruz. The Office dealt with 624 judicial cases and obtained the release of 14 persons, and 392 police cases in which it obtained the release of 161 persons.

43. The Office of the Official Guardian operates in four of Bolivia's nine departments.

Legacy of the past and present reality

44. Regarding the shortcomings of Bolivia's system of administration of justice, the report entitled Estudio del Funcionamiento del Sistema Penal en Bolivia (Study of the Operation of the Penal System in Bolivia) states:

"1. Inaccessibility. The principle that all persons are equal before the law and have the right, without discrimination, to equal treatment, is enshrined both in international instruments and in the Constitution.

Regrettably, in practice this universal rule is beset by hurdles that are insurmountable for certain categories of persons, and which have led them to conclude that there is no justice or that it is virtually unattainable.

Free access to justice is impeded for manifold reasons, such as people's economic status, the language gap between the citizen and the the courts, the complexity of legal terminology, the non-participation or passive presence of the victim in the procedural system, the bureaucratic and formal structure of the law-enforcement apparatus, etc.

In addition, inaccessibility resides not only in the impossibility of gaining entry to the criminal justice system, but also in the fact that it denies litigants rapid and effective solutions to their disputes.

2. What those involved think about inaccessibility

Asked whether it is easy to initiate proceedings in Bolivia, those involved in the criminal justice system replied as follows:

	Yes	No
Judges	37.4%	59.4%
Advocates	32.4%	67.7%
Prosecutors	39.4%	60.6%
Litigants	24.3%	75.2%

The ranking of those answering "no" to the question is as follows:

	Yes	No
Litigants		75%
Advocates		67%
Prosecutors		60.6%
Judges		59.4%

The diversity of opinion on the topic can be accounted for by the fact that each group of respondents views the issue from its own angle, particularly if they belong to the system and are part of the reason for its inaccessibility.

The reasons for inaccessibility

Those who believe it is difficult to resort to the courts for justice give the following reasons (percentages):

JUDGES	
Cumbersome formalities	4.52%
High cost	16.77%
Ignorance of the law	9.03%
Sluggish procedure	10.65%
Inefficiency	1.61%
A source of further problems	3.87%
ADVOCATES	
Cumbersome formalities	39.30%
High cost	26.50%
Ignorance of the law	2.20%
Sluggish procedure	6.50%
Inefficiency	1.20%
A source of further problems	0.60%
PROSECUTORS	
Cumbersome formalities	17.61%
High cost	17.61%
Ignorance of the law	5.63%
Sluggish procedure	10.65%
Inefficiency	2.82%
A source of further problems	3.52%
LITIGANTS	
Cumbersome formalities	41.2%
High cost	26.5%
Ignorance of the law	8.9%
Sluggish procedure	18.6%

Assessment

The diverse reasons for inaccessibility described above are linked to the phenomenon to the extent that they hinder the dynamics of judicial procedure.

When respondents associated inaccessibility with cumbersome formalities, high cost, sluggish procedure, inefficiency and the emergence of further problems, they were actually pointing to the obstacles that hinder the settlement of legal disputes, and which leave them with a feeling of justice denied.

When a citizen resorts to the courts he comes up against countless hurdles, as well as being the victim of various forms of extortion, and instead of solutions finds fresh problems as serious as or even more serious than those he is attempting to overcome. In those circumstances, litigants cannot but lose confidence in the courts as a means of solving their problems, and may well renounce their legitimate rights to avoid tackling a system that does them more harm than good. This bears out the popular proverb that 'a bad compromise is better than a good trial' which is why an ever-increasing number of people opt out of the system and prefer to settle out of court.

4. The language barrier

Language is another barrier that hinders equal access to justice when the accused belong to ethnic groups that speak a different language from that of the court.

(a) Language and social status as causes of discrimination

Table 35 shows that 8.52 per cent of the prisoners who asserted that the judicial system was discriminatory pointed to language and social status as the causes of that anomaly, and 48.15 per cent to corruption; however, this latter figure in fact points to a form of discrimination resulting from lack of money to pay bribes to judicial officials. In other words, 57 per cent of prisoners suffer from discriminatory treatment because they are too poor and do not speak Spanish well.

(b) The language of prisoners

Graph 94 shows that 2 per cent of the prisoners in the sample express themselves in Quechua and 0.3 per cent in Aymara; this is in addition to the 15.19 per cent who speak both Aymara and Spanish, the 10 per cent who speak Quechua and Spanish, the 1.48 per cent who speak Guaraní and Spanish and the 0.37 per cent who speak Guaraní and Quechua.

It should be noted that groups who speak Aymara plus Spanish, Guaraní plus Spanish, or Guaraní plus Quechua plus Spanish use their mother tongue Aymara, Quechua or Guaraní fluently and with ease and speak Spanish very little and badly, which rules out the command of both languages that seemed to be inferred from the survey.

Taking as a whole the groups that speak their indigenous language fluently, a total of 41.85 per cent of prisoners neither speak nor understand well the Spanish used by the courts.

The law provides for the appointment of translators only for persons who speak a foreign language and not for those who speak a native language, thereby treating those who deserve greater protection in a manner that is by any reckoning unjust.

In view of the above, it may be concluded that command of a language other than that used in judicial proceedings hampers equal access to justice.

5. The situation of victims

Under substantive criminal law, the victim is taken into account in assessing the penal sentence. Under criminal procedural law, the criminal indemnification proceedings arising out of the offence are brought in his name and he may demand that public right of action be exercised. However, what the penal system does not do is give preference to reparation of the injury rather than to the penalty in specific types of offence, as a legitimate means of relieving pressure on the judicial system, in line with contemporary penal theory. Nor has a victims' compensation fund been brought into operation to provide immediate reparation for the injury caused to victims, whose rights are generally whittled away in the course of lengthy procedures which end in belated payments.

The practice of terminating public right of action by conciliation without the participation of victims prompts them to act in isolation, compelling them to compromise, and leads to abandonment of public right of action, with disadvantageous results, simply because they lacked timely protection from the Prosecution Service or the court.

6. Settling disputes without resorting to the courts

In reply to the question whether litigants had been able to settle their legal problem without resorting to the courts, 70.8 per cent of respondents said that they had and only 26.1 per cent that they had not, while 3.1 per cent gave no reply.

This clearly demonstrates the marginalization of citizens with disputes, who prefer to settle their problems without resorting to the courts, undoubtedly out of mistrust for the results they would obtain, and did obtain on other occasions.

7. Extrajudicial settlements

The survey carried out among different sectors of opinion on extrajudicial settlements yielded the following results:

PROSECUTORS	
Recourse to extrajudicial settlements?	
Sometimes	74.6%
Always	1.0%
Never	21.4%
JUDGES	
Always	3.9%
Sometimes	58.7%
Never	32.3%

The absence of judicial machinery to permit settlements within the system itself, on the erroneous ground that every act has to be punished, has resulted in litigants resorting to extrajudicial settlements at the risk of being cheated in any compromise reparation. Rules to permit settlements as a means of relieving the excessive number of cases would only be applicable to minor offences.

Assessment

The inaccessibility of the criminal justice system to Quechua and Aymara ethnic groups is demonstrated by the data provided by respondents and the analysis of files.

Justice which extends only to certain social groups is not truly democratic, a fact that has been of concern to lawyers since the beginning of the Republic, when law-givers adopted a European criminal justice system with complete disregard for the country's indigenous inhabitants. This anomalous and exclusionist system has persisted ever since the 1973 reform.

As on the question of selectiveness, respondents were vague in identifying the causes and possible solutions.

If the main objective is to ensure that justice extends to all sectors of society, then the primary concern must be to implement the provisions of the recent Indigenous Peoples Act of 11 July 1991 which, inter alia, advocates the adoption of measures to protect the members of the population, taking into consideration their customs or customary law, whenever they are not incompatible with the fundamental rights defined by the Bolivian judicial system. In short, the judicial authorities should give preference to other types of penalty than imprisonment.

The inaccessibility of justice to the various social groups leads us to envisage the creation of various mechanisms for community participation that would offer alternative solutions to purely judicial action and thus provide more accessible methods of administering justice, such as mediation tribunals, arbitration and conciliation.

Corroboration of the above is provided by the discriminatory treatment meted out by the system, whose main causes are the victims' social status, language, and powerlessness to resist extortion by corrupt officials.

An important step towards solving the problem would be to introduce the practice of oral proceedings, and to organize and institutionalize the office of Official Guardian and the provision of translators and interpreters for persons who speak native languages in order to ensure effective and coherent communication between the accused and their judges."

Article 7

Teaching and education

45. Article 177 of the Constitution states:

"Education is the highest function of the State, and in the exercise of this function the State must foster the cultural development of the people.

Freedom of education under the supervision of the State is guaranteed.

State education is free and is provided on the basis of the unified and democratic school system. Primary education is compulsory."

46. The following articles of the Constitution, under the title of "Cultural regime" state:

"Art. 178. The State shall promote vocational education and professional technical training, which it shall organize according to the requirements of Bolivia's economic development and sovereignty.

Art. 179. Literacy is a social necessity to which all inhabitants must contribute.

Art. 180. The State shall assist students without means in order to ensure them access to the higher levels of education, so that the criteria of vocation and capacity prevail over social or economic status.

Art. 181. Private schools shall be subject to the same authorities as State schools and shall be governed by the officially approved plans, programmes and regulations.

Art. 182. Freedom of religious education is guaranteed.

Art. 184. State and private education at the preschool, primary, secondary, teacher-training and special levels shall be regulated by the State acting through the Ministry of Education and in accordance with the Education Code. Teaching personnel may not be dismissed, subject to the conditions determined by law."

47. The Bolivian Education Code, on which Bolivia's system of education was based, was in force from 20 January 1955 until the promulgation of the Educational Reform Act of 7 July 1994.

48. The 1955 educational reform, mapped out in Bolivia's Education Code, brought about a major transformation of the educational system. A selective and discriminatory system of education was replaced by a democratic system of mass education. However, while the Code was in force, far-reaching changes were made to it through supreme decrees and decree-laws, particularly under the military regimes of Generals Barrientos and Banzer; those changes were set aside by subsequent Governments. All these amendments to the Education Code resulted in a legislative tangle, replete with contradictions and anomalies that required the promulgation of a new act designed to set the stage for the legislative reorganization of Bolivia's system of education.

49. After an extensive nationwide debate, the Educational Reform Act was promulgated and published on 7 July 1994. The Act is based on sound theoretical principles essential for the building of a free, democratic and participatory society. In the light of those principles, it sets objectives consistent with the actual needs of Bolivia's people and, in harmony with those objectives, rests on two essential pivots: community participation and multiculturalism in the form of bilingual education. The essential rationale of the Educational Reform Act is:

(a) To reassert the constitutional principle that education is the highest function of the State, and to confirm that State education is free of charge;

(b) To establish the democratic, participatory, intercultural and bilingual nature of national education, in response to national reality;

(c) To provide for the management, through grass-roots participation, of public funds allocated to the people for the purpose of improving the quality of national education;

(d) To eliminate discrimination between cities and rural areas by adapting education to local and regional features and requirements, thus making unity within diversity possible;

(e) To provide sound training for human resources and to offer a comprehensive bilingual education for men and women, promoting justice, solidarity and equity in order to strengthen national integration.

50. The aims of the reform are as follows:

(a) To guarantee, through community participation, an educational system that is efficient and has a national content;

(b) To acknowledge Bolivia's ethnic and cultural diversity, by opting for an intercultural and bilingual form of education to satisfy the needs of the individual and of his community;

(c) To give priority attention to the least favoured sectors of society, by providing broad coverage at the primary level, to upgrade the teaching at the secondary level and to improve higher education by encouraging self-teaching and personal improvement.

51. The new educational structure provides for three levels of schooling and for changes in the teacher-training schools. The preschool stage lasts at least one year and is designed to prepare the child for primary school. Secondary-level schooling lasts for four years and is subdivided into two periods. The first, technological training, lasts two years, and on its completion pupils are awarded the basic technical diploma. In the second period, known as differentiated education, the pupil may choose between two areas, technical methods and science with the humanities. On completion of their studies pupils are awarded the technical baccalaureate or the baccalaureate in the humanities. Teacher-training schools are to become higher teacher-training institutes, which may associate themselves with the State universities. They must be staffed by university graduates, in order to improve the quality of teaching staff. Graduates of the institutes who have been awarded the Provisión Nacional diploma will be entitled to the academic grade of higher technician.

52. In conformity with the Constitution and the Educational Reform Act, the training and education provided in all Bolivia's educational establishments and universities embrace the aims and principles enshrined in the Charter, declarations and conventions of the United Nations.

53. Article 2 of the Educational Reform Act sets out the following fundamental aims for education in Bolivia:

> "To foster attachment to humanitarian values and universally recognized ethical standards, as well as to the standards proper to our own culture, by promoting responsibility in the taking of personal decisions, the development of critical thought and respect for human rights, preparation for a biologically and ethically sound sexual life as the foundation for a responsible family life, instillation of a sense of duty and aptitude for living in a democracy, and strengthening both of individual awareness and of the community spirit ..."
>
> "To inculcate into the people the principles of political and economic sovereignty, of territorial integrity and of social justice, while at the same time promoting peaceful coexistence and international cooperation."

Culture

54. Regarding the role to be played by the universities in developing national culture and traditions, the Constitution provides as follows:

"Art. 189. All Bolivia's universities have the duty to operate institutes for the cultural, technical and social education of workers and of the community.

Art. 190. All levels of education shall be subject to State supervision, exercised through the Ministry of Education.

Art. 191. Monuments and archaeological objects are the property of the State. The colonial, archaeological, historic and documentary heritage, together with the religious heritage, constitute the cultural wealth of the nation; they shall be under the protection of the State and may not be exported.

The State shall keep a register of the nation's artistic, historic, religious and documentary wealth, for whose upkeeping and conservation it shall be responsible.

The State shall preserve any buildings and objects declared to be of historic or artistic value.

Art. 192. Expressions of popular art and industry are elements of national culture and are entitled to special protection from the State in order to preserve their authenticity and promote their production and dissemination.

55. For its part, referring to the proper role of national education in promoting intra-national and intracultural understanding, tolerance and friendship among nations and between the various racial and ethnic groups, the Educational Reform Act states:

"Art. 1. Bolivian education shall be organized on the following principles ... (5) It shall be intercultural and bilingual, because it is heir to Bolivia's social and cultural diversity within a framework of respect between all Bolivians, whether men or women ... (6) Education is a right and duty of every Bolivian, being organized and dispensed with the participation of the whole of society without restriction or discrimination with respect to ethnic background, culture, region, social status, physical, mental or sensory condition, gender, creed or age ...

Art. 2. The Bolivian education system has the following aims ... (4) To strengthen national identity, exalting the historical and cultural values of the Bolivian nation with its vast and diverse multicultural and multiregional wealth ...

Art. 3. The national educational system shall pursue the following aims and policies ... (5) To build an intercultural and participatory system of education that offers all Bolivians access to education without any form of discrimination ... (6) To democratize educational services on

the basis of comprehensive primary education and efforts towards a significant expansion in the coverage of secondary education, by implementing measures to promote equality of access, opportunities and achievements in education, with special attention to women and underprivileged groups, and special emphasis on the decisive role played by State education in this respect ..."

Information

56. Article 7 of the Constitution stipulates that everyone shall have the following fundamental rights:

"(b) To express his ideas and opinions freely, by any means of dissemination.

(e) To receive an education and to acquire culture ..."

These rights are exercised in conformity with current regulations relating to telecommunications and printing, which prohibit the dissemination of any form of racial prejudice.

57. In view of the constant progress in information technology and in order to adapt our legislation to mankind's new circumstances, a telecommunications bill, the first two articles of which are given below, is currently being discussed in Bolivia.

"Art. 1. PURPOSE. The present Act lays down the rules to govern telecommunications services and activities. The provisions of this Act shall apply to individuals and groups that engage in the broadcasting, transmission or reception of telecommunications originating or received within the national territory.

Art. 2. FREE COMPETITION. Free competition among all telecommunications services is hereby established, subject to the provisions of this Act."

58. Once the bill becomes law it will be completed by the Act establishing the Sectoral Regulation System, an autonomous technical body whose role is to safeguard the interests of the State, of private enterprise and of consumers on an equitable basis. It acts as arbiter to ensure fair treatment for all parties. In harmony with other legislation such as the Act on Popular Participation and the Educational Reform Act, the telecommunications bill, which will shortly become law before Parliament, assigns to the State media the important mission of promoting respect for human rights and combating all forms of discrimination.